

1 BILL NO. S-82-11- 23

2 SPECIAL ORDINANCE NO. S- 221-82

3 AN ORDINANCE approving Street Improvement
4 Resolution No. 5949-82, 1982 Asphalt
5 Resurfacing, Fifth Councilmanic District,
6 with Wayne Asphalt and Construction Company,
7 Inc., in connection with the Board of
8 Public Works.

9 BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF
10 FORT WAYNE, INDIANA:

11 SECTION 1. That a certain Contract dated September 15,
12 1982, between the City of Fort Wayne, Indiana, by and through
13 its Mayor and the Board of Public Works and Wayne Asphalt and
14 Construction Company, Inc., for:

15 the resurfacing and restoration of the following
16 designated streets: Calhoun Street; Harrison
17 Street; Wildwood Avenue; Leith Street; Cottage
18 Avenue; Creighton Avenue; Esmond Street; Home
19 Avenue; Hoagland Avenue; Fox Avenue; Barr Street;
20 Dalman Avenue; Kinnaird Avenue; Grace Avenue;
21 Wildwood Avenue; and Kinsmoor Avenue;

22 under Board of Public Works Street Improvement Resolution No.
23 5949-82, involving a total cost of Four Hundred Twenty-Eight
24 Thousand Six Hundred and 10/100 Dollars (\$428,600.10), all
25 as more particularly set forth in said Resolution and Contract,
26 and which is on file with the Office of the Board of Public
27 Works and is by reference incorporated herein, made a part
28 hereof, and is hereby in all things ratified, confirmed and
29 approved. Two copies of said Contract are on file with the Office
30 of the City Clerk and made available for public inspection,
31 according to law.

32 SECTION 2. That this Ordinance shall be in full force
and effect from and after its passage and any and all necessary
approval by the Mayor.

APPROVED AS TO FORM
AND LEGALITY


Councilmember


Bruce O. Boxberger, City Attorney

Read the first time in full and on motion by Stier,
seconded by Burns, and duly adopted, read the second time
by title and referred to the Committee (Public Works) (and the City
Plan Commission for recommendation) and Public Hearing to be held after
due legal notice, at the Council Chambers, City-County Building, Fort Wayne,
Indiana, on 11-23-82, the 11 day of
November, 1982, at 7 o'clock P.M., E.S.T.

DATE: 11-23-82

C. W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Read the third time in full and on motion by Stier,
seconded by Burns, and duly adopted, placed on its
passage. PASSED (~~LOST~~) by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	<u>9</u>	<u>0</u>			
<u>BRADBURY</u>	<u>X</u>				
<u>BURNS</u>	<u>X</u>				
<u>EISBART</u>	<u>X</u>				
<u>GIAQUINTA</u>	<u>X</u>				
<u>SCHMIDT</u>	<u>X</u>				
<u>SCHOMBURG</u>	<u>X</u>				
<u>SCRUGGS</u>	<u>X</u>				
<u>STIER</u>	<u>X</u>				
<u>TALARICO</u>	<u>X</u>				

DATE: 12-14-82

C. W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne,
Indiana, as (TONING MAP) (GENERAL) (ANNEXATION) (SPECIAL)

(APPROPRIATION) ORDINANCE (RESOLUTION) NO. 1-221-82
on the 14th day of December, 1982.

ATTEST:

(SEAL)

C. W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Samuel J. Talarico
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on
the 15th day of December, 1982, at the hour of
11:30 o'clock P.M., E.S.T.

C. W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Approved and signed by me this 17th day of December
1982, at the hour of 4 o'clock P.M., E.S.T.

Win Moses, Jr.
WIN MOSES, JR. - MAYOR

BILL NO. S-82-11-23

REPORT OF THE COMMITTEE ON PUBLIC WORKS

WE, YOUR COMMITTEE ON Public Works TO WHOM WAS REFERRED AN
ORDINANCE approving Street Improvement Resolution No. 5949-82,
1982 Asphalt Resurfacing, Fifth Councilmanic District,
with Wayne Asphalt and Construction Comapny, Inc., in connection
with the Board of Public Works

HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT
BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE Do PASS.

JAMES S. STIER, CHAIRMAN

BEN A. EISBART, VICE CHAIRMAN

VICTOR L. SCRUGGS

MARK E. GIAQUINTA

DONALD J. SCHMIDT

James Stier

Victor L. Scruggs

Mark E. Giaquinta

12-14-82

DATE 12-14-82 CHAIRMAN, CITY C

CONTRACT

72-91-21
9/15/82

This Agreement, made and entered into this 15 day of Sept., 1982

by and between ----- WAYNE ASPHALT AND CONSTRUCTION COMPANY, INC. -----

----- 6600 Ardmore Avenue, Fort Wayne, Indiana 46809 -----

hereinafter called "Contractor" and the City of Fort Wayne, Indiana, a municipal corporation, hereinafter called "City," under and by virtue of an act of the General Assembly of the State of Indiana, entitled "An Act Concerning Municipal Corporations," approved March 6, 1905, and all amendatory and supplementary acts thereto, WITNESSETH: That the Contractor covenants and agrees to improve Resolution No. 5949-82

the 5th Councilmanic District (1982 Resurfacing) - See attached Improvement
prove. _____
Resolution for detailed list of streets.

by grading and paving the roadway to a width of _____ feet with _____

upon a foundation and with curbing as fully set out in the specifications hereinafter referred to, in a good and workmanlike manner and to the entire satisfaction of said City, in accordance with Improvement Resolution No. 5949-82 attached hereto and by reference made a part hereof.

At the following prices:

Pavement Removal	One dollar and thirty cents per square yard	1.30
H.A.C. #9 Binder	Twenty-one dollars and no cents per ton	21.00
H.A.C. #11 Binder	Twenty-two dollars and no cents per ton	22.00
H.A.C. A-2 Surface	Twenty-three dollars and no cents per ton	23.00
Joint & Crack Sealer	Three hundred and eighty dollars and no cents per ton	380.00
Catch Basins - Adjust & Set to Grade	One hundred and twenty-five dollars and no cents per each	125.00
Manholes - Adjust & Set to Grade	One hundred and twenty-five dollars and no cents per each	125.00
Water Valves - Adjust & Set to Grade	Forty-five dollars and no cents per each	45.00
Standard C.B.'s (Complete In Place)	Twelve hundred and fifty dollars and no cents per each	1,250.00
Petrotac 12" (In Place) See Spec.	One dollar and eighty cents per lineal foot	1.80
Roadglas 12" (In Place) See Spec.	One dollar and eighty cents per lineal foot	1.80
Total	Four hundred and twenty-eight thousand, six hundred dollars and ten cents	\$428,600.10

Continued...

The Contractor hereby expressly agrees to perform all the work in the prosecution of the above described improvement according to the terms and conditions of Improvement Resolution No. 5949-82 the plans, profiles, specifications and the contractor's bid therefor on file in the office of the Department of Public Works of said City, which said resolution, profile, plans and specifications are made a part of this contract as fully and effectually as if copied herein at full length, (copies of which are attached hereto).

It is hereby agreed that no assignment of this contract shall be made without the written consent of the City; said Contractor hereby covenants and agrees that said improvement shall be finally and in all respects completed on or before Sept. 30, 1982 and the Contractor agrees to pay and give to the City, as liquidated damages, the sum of \$25.00 for each and every day after said date, 19 until said work is finally completed and ready for acceptance by the City. It being also understood that in event of any conflict between this contract and the specifications, that the former shall be considered to contain the intention of the parties hereto.

It is further agreed by and between said parties, that the acceptance of the work provided for in this contract, or the payment therefor, for the whole or a part, shall not constitute a waiver on the part of the City of any of the provisions of the contract, nor shall it release said Contractor, or the sureties upon its bond for the faithful performance thereof, nor shall the acceptance be even prima facie evidence of the performance of any provisions of such contract except to the extent of entitling said Contractor to receive the price therefor. It is further understood that the failure of the City to exercise its right of inspection or rejection of material and work, or the exercise of such right shall not in any sense be considered an acceptance of any part of said work or material.

The Contractor further contracts and agrees that in the prosecution of said work all proper skill and care will be exercised, that said party will properly and fully guard all excavations and dangerous places, and will use all due and proper precautions to prevent injury to any property, person and persons, what or whomsoever. That for and during the period of the making of such improvement, and the period for which the same is to be maintained and kept in repair by the Contractor, the City shall be saved harmless from any and all liability whatsoever growing out of any injury or damage to property or persons because of any neglect or fault of the said Contractor, its agents or employees, in the execution of this contract or any matter connected therewith or related thereto and to pay any judgment with costs which may be obtained against said City, growing out of any such injury or damage.

To each of the conditions and stipulations in this contract, the undersigned bind themselves, their successors and assigns.

IN WITNESS WHEREOF, we the foregoing named parties hereunto set our hands this 15 day of Sept, 1982

ATTEST:

[Signature]
Corporate Secretary

WAYNE ASPHALT AND CONSTRUCTION CO., INC.

BY: C. K. Stewart

ITS: C. K. STEWART, PRES.

Contractor, Party of the First Part.

City of Fort Wayne, By and Through:

ATTEST:

[Signature]
Secretary and Clerk

Its Board of Public Works and Mayor.

[Signature]
ASSOCIATE CITY ATTORNEY

The Contractor will furnish immediately a certificate from the Industrial Board of the State of Indiana that he has complied with Sections 5, 68, 69 of the Workmen's Compensation Act, approved March 14, 1929, in accordance with Section 14 of the Compensation Act (Acts 1929, page 545, being I.C. 22-3-2-1 et. seq.).

A copy of General Ordinance No. G-34-78 (as amended) concerning discriminating in employment under municipal contracts is attached and incorporated herein by reference.

IMPROVEMENT RESOLUTION

FOR STREETS

NO. 5949 - 1982

RESOLVED BY THE BOARD OF PUBLIC WORKS OF THE CITY OF FORT WAYNE, INDIANA, that it is deemed necessary to improve by resurfacing and restoring pavement as designated on the following streets to be known as:

1. CALHOUN STREET - From the north property line of Pontiac Street to the north curb line of Rudisill Blvd.
2. HARRISON STREET - From the south curb line of Creighton Avenue to the north curb line of Darrow Avenue.
3. WILDWOOD AVENUE - From the west curb line of South Wayne Avenue to the east curb line of Broadway.
4. LEITH STREET - From the east curb line of Calhoun Street to the west curb line of Hanna Street.
5. COTTAGE AVENUE - From the west curb line of South Wayne Avenue to the east curb line of Broadway.
6. CREIGHTON AVENUE - From the east curb line of Broadway to the west curb line of South Wayne Avenue.
7. ESMOND STREET - From the east curb line of Calhoun Street to the west curb line of Lafayette Street.
8. HOME AVENUE - From the west property line of Indiana Avenue to the west property line of South Wayne Avenue.
9. HOAGLAND AVENUE - From the south curb line of Creighton Avenue to the north curb line of Rudisill Blvd.
10. FOX AVENUE - From the south curb line of Creighton Avenue to the north curb line of Home Avenue.
11. BARR STREET - From the north property line of Oakdale Drive to the north curb line of Rudisill Blvd.
12. DALMAN AVENUE - From the east curb line of Fiqua Avenue to the west curb line of Lafayette Street.
13. KINNAIRD AVENUE - From the east curb line of Broadway to the east property line of Indiana Avenue.
14. GRACE AVENUE - From the east curb line of Broadway to the west curb line of Fox Avenue.
15. WILDWOOD AVENUE - From the east curb line of Calhoun Street to the west curb line of Clinton Street.
16. KINSMOOR AVENUE - From the west curb line of Beaver Avenue to the east curb line of Broadway.

with Hot Asphalt Binder (as per design mix formula)
with Hot Asphalt Top Surface (as per design mix formula)

All in accordance with the specifications on file in the office of the Department of Public Works of said City; and such improvement is now ordered.

It is hereby found by said Board of Public Works that all benefits accruing hereunder will be to the general public of the City of Fort Wayne and that no special benefits will accrue to any property owner adjoining said improvement or otherwise assessable under said improvement. The cost of said improvement shall be paid from monies appropriated from the General Obligation Bonds and designated as "Municipal Bonds - 1982".

ADOPTED, this _____ day of _____, 1982.

ATTEST:

Secretary & Clerk

BOARD OF PUBLIC WORKS
CITY OF FORT WAYNE, INDIANA

Stephen A. Bailey, Chairman

Roberta Anderson-Staten, Member

Betty R. Collins, Member

PERFORMANCE AND GUARANTEE BOND

KNOW ALL MEN BY THESE PRESENTS, that we WAYNE ASPHALT & CONSTRUCTION CO., INC. as Principal, and the UNITED STATES FIDELITY & GUARANTY COMPANY, a corporation organized under the laws of the State of MARYLAND, and duly authorized to transact business in the State of Indiana, as Surety, are held firmly bound unto the City of Fort Wayne, Indiana, an Indiana Municipal Corporation in the sum of FOUR HUNDRED AND TWENTY-EIGHT THOUSAND, SIX HUNDRED DOLLARS AND TEN CENTS -----

(\$ 428,600.10-----), for the payment whereof well and truly to be made, the Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents. The condition of the above obligation is such that

WHEREAS, the Principal did on the 15 day of Sept., 1982, enter into a contract with the City of Fort Wayne to construct

Improvement Resolution No. 5949-82

To improve the 5th Councilmanic District (1982 Resurfacing) - See attached Improvement Resolution for detailed list of streets.

at a cost of \$ 428,600.10-----, according to certain plans and specifications prepared by or approved by the City.

WHEREAS, the grant of authority by City to so construct such improvement provides:

1. That said improvement shall be completed according to said plans and specifications, and contractor shall warrant and guarantee all work, material, and conditions of the improvement for a period of three (3) years from the date of final acceptance in writing by the Owner;
2. There shall be filed with the City, within thirty (30) days after completion, a Completion Affidavit;
3. Said Principal is required to agree to make such adjustments, modifications, and repairs as required by the City within thirty (30) days after notice.

WHEREAS, said Surety, for value received, hereby stipulates and agrees, that no change, extension of time, alteration, or addition to the terms of the contract or to the work to be performed thereunder, or the specifications accompanying the same, shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract, or to the work or to the specifications.

NOW THEREFORE, if the principal shall faithfully perform all of the terms and conditions required of it by the contract and shall for three (3) years after acceptance of said improvement by City warrant and guarantee said improvement and shall indemnify the City for all loss that City may sustain by reason of the Principal's failure to comply with any of the terms of the authorization, then this obligation shall be void, otherwise it shall remain in full force and effect.

WAYNE ASRHALT & CONSTRUCTION CO., INC.
(Contractor)

BY: C. K. Stewart

ITS: C. K. STEWART, PRES.

ATTEST:

S. C. Helmsing
Sec.
(Title)

UNITED STATES FIDELITY & GUARANTEE COMPANY
Surety

*BY: Donald Bailey
Authorized Agent
(Attorney-in-Fact)

*If signed by an agent, power of attorney must be attached

PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS: that

----- WAYNE ASPHALT AND CONSTRUCTION COMPANY, INC. -----

(Name of Contractor)

----- 6600 Ardmore Avenue, Fort Wayne, Indiana. 46809 -----

(Address)

a CORPORATION, hereinafter called Principal,
(Corporation, Partnership or Individual)

and UNITED STATES FIDELITY & GUARANTEE COMPANY
(Name of Surety)

and duly authorized to transact business in the State of Indiana, hereinafter called Surety, are held and firmly bound unto the City of Fort Wayne, an Indiana Municipal Corporation in the penal sum of FOUR HUNDRED AND TWENTY-EIGHT THOUSAND, SIX HUNDRED DOLLARS AND TEN CENTS for the payment whereof well and truly to be made, the Principal and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the Principal entered into a certain contract with the Owner, dated the 15 day of Sept, 1982, for the construction of:

Improvement Resolution No. 5949-82

To improve the 5th Councilmanic District (1982 Resurfacing) - See attached Improvement Resolution for detailed list of streets.

at a cost of FOUR HUNDRED AND TWENTY-EIGHT THOUSAND, SIX HUNDRED DOLLARS AND TEN CENTS
(\$ 428,600.10), all according to Fort Wayne Street Engineering Department plans and specifications.

WHEREAS, said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the contract or to the work to be performed thereunder, or the specifications accompanying the same, shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract, or to the work or to the specifications, and

WHEREAS, no final settlement between the Owner and the Contractor shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

NOW, THEREFORE, if the Principal shall promptly make payment to all persons, firms, subcontractors, and corporations furnishing materials for or performing labor in the prosecution of the work provided for in such contract, and any authorized extension or modification thereof, including all amounts due for materials, lubricants, oil, gasoline, coal and coke, repairs on machinery, equipment and tools, consumed or used in connection with the construction of such work, and all insurance premiums on said work, and for all labor, performed in such work whether by subcontractor or otherwise, then this obligation shall be void; otherwise to remain in full force and effect.

IN WITNESS WHEREOF, this instrument is executed in 3 counter-
(number)
parts, each one of which shall be deemed an original, this 15 day of
Sept, 1988

(SEAL)

ATTEST:

J. R. Dehmer
(Principal) Secretary

WAYNE ASPHALT AND CONSTRUCTION CO., INC.

Principal

BY

C. K. Stewart

C. K. STEWART, PRES.

(Title)

(Address)

Witness as to Principal

(Address)

UNITED STATES FIDELITY & GUARANTEE COMPANY

Surety

BY

Samuel Shulberg

Attorney-in-Fact

(Authorized Agent)

BALTIMORE, MD

(Address)

S. J. Helmsing
Witness as to Surety

(Address)

NOTE: Date of Bond must not be prior to date of Contract.
If Contractor is Partnership, all partners should execute bond.

ATTACH POWER OF ATTORNEY

DEPARTMENT REQUESTING ORDINANCE Board of Public Works

✓-82-11-23

SYNOPSIS OF ORDINANCE Resurfacing and restoring pavement as designated on the following streets. 1. Calhoun St. 2. Harrison Street 3. Wildwood Ave. 4. Leith Street 5. Cottage Avenue 6. Creighton Avenue 7. Esmond Street 8. Home Avenue 9. Hoagland Avenue 10. Fox Avenue 11. Barr Street 12. Dalman Avenue 13. Kinnaird Ave. 14. Grace Avenue 15. Wildwood Avenue 16. Kinsmoor Avenue

Contract was awarded to Wayne Asphalt & Construction Co., Inc.

Prior approval was received September 7, 1982.

EFFECT OF PASSAGE Improvement of streets in 5th District.

EFFECT OF NON-PASSAGE

MONEY INVOLVED (DIRECT COSTS, EXPENDITURE, SAVINGS) \$428,600.10

ASSIGNED TO COMMITTEE